

§ 24.279

27 CFR Ch. I (4–1–16 Edition)

that the allowance of the credit would benefit a person who would otherwise fail to qualify for the use of the credit.

(26 U.S.C. 5041(c).)

(Approved by the Office of Management and Budget under control number 1513–0104)

[T.D. TTB–64, 72 FR 65454, Nov. 21, 2007]

§ 24.279 Tax adjustments related to wine credit.

(a) *Increasing adjustments.* Persons who produce more wine than the amount used in computation of the credit, or who lose eligibility by not producing during a calendar year, must make increasing tax adjustments. Where an increasing adjustment to a person's tax return is necessary as a result of an incorrect credit rate claimed pursuant to § 24.278, that person must make the adjustment on the Excise Tax Return, TTB F 5000.24, no later than the return period in which production (or the production of the controlled group of which the person is a member) exceeds the amount used in computation of the credit. If the adjustment is due to failure to produce, the person must make the adjustment no later than the last return period of the calendar year. The adjustment is the difference between the credit taken for prior return periods in that year and the appropriate credit for those return periods. The person must make tax adjustments for all bonded wine premises where excess credits were taken against tax that year, and must include interest payable. In the case of a person who continued to deduct credit after reaching the 100,000 gallon maximum during the calendar year, that person must make an adjustment in the full amount of excess credit taken and must include interest payable under 26 U.S.C. 6601 from the date on which the excess credit was taken. In addition, the person must include the penalty payable under 26 U.S.C. 6662 if the appropriate TTB officer determines that the underpayment was due to negligence or disregard of rules or regulations and advises the person to include the penalty as part of the adjustment. The appropriate TTB officer will provide information, when requested, regarding interest rates applicable to specific time periods and re-

garding any applicable penalties. In the case of a controlled group of bonded wine premises that took excess credits, all member proprietors who took incorrect credits must make tax adjustments as determined in this section. In the case of a small producer who instructed a transferee in bond to take credit as authorized by § 24.278(b)(2), and subsequently determines that the credit was less or not applicable, that producer must immediately inform the transferee in bond, in writing, of the correct credit information. The transferee must make any increasing adjustment on its next tax return based on revised credit information given by the producer or a TTB officer.

(b) *Decreasing adjustments.* Where a person fails to deduct the credit or deducts less than the appropriate credit provided for by § 24.278 during the calendar year, the person may file a claim for refund of excess tax paid. The claim must be filed in accordance with § 24.69. In the case of wine removed on behalf of a small producer by a transferee in bond, if the transferee in bond was instructed to deduct credit and failed to deduct credit or deducted less than the appropriate credit and was later reimbursed for the tax by that producer, the transferee may file the claim. The provisions of 26 U.S.C. 6423 and 27 CFR part 70, subpart F, will apply, and the producer and transferee in bond must show that the conditions of § 24.278(b)(2) were met.

(26 U.S.C. 5041(c))

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TRANSFER OF WINE IN BOND

§ 24.280 General.

Wine may be removed for transfer in bond, from one bonded wine premises to another bonded wine premises or to a distilled spirits plant. For bulk wine transferred in bond between adjacent or contiguous bonded wine premises or to an adjacent or contiguous distilled spirits plant, an accurately calibrated tank for measuring the wine is required on at least one of the premises. The volume of wine transferred will be recorded to the nearest whole gallon,